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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

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[REDACTED]  
[REDACTED]

FOO/164601

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 09, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on April 16, 2015, at West Bend, Wisconsin.

The issues for determination are whether Petitioner's FoodShare group has been correctly determined and whether Petitioner's FoodShare eligibility was correctly determined.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Renae Zagel

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Washington County.
2. Petitioner was sent a Notice of Decision dated March -, 2105 that informed her that her FoodShare benefit was being discontinued effective April 1, 2015 as household income was in excess of FoodShare program income limits.

3. Petitioner's FoodShare household consists of 4 persons – Petitioner, her two children and Petitioner's husband.
4. The agency determined that Petitioner's FoodShare household gross income to be \$2946.00. This consists entirely of Social Security benefits: \$777.00 for Petitioner, \$1085 for her husband and \$542.00 for each child.
5. The FoodShare eligibility calculation formula effective April 1, 2015 for Petitioner included the standard deduction of \$165.00. This brings Petitioner's adjust income to \$2781.00. Half of this is \$1390.50. As Petitioner pays rent of \$1195.00 and does pay for heat so receives the standard utility allowance of \$446.00. Thus Petitioner's total shelter expenses are \$1641.00 so Petitioner has a shelter deduction of \$250.50 (\$1641-1390.50). There were no other deductions.
6. After deductions, household income for FoodShare purposes is \$2530.50. The FoodShare net income limit for a household of 4 is \$1988.00. *FoodShare Eligibility Handbook (FSH)*, §8.1.1.1.

### **DISCUSSION**

FoodShare law and policy require that certain individuals be included in the FoodShare group regardless of whether they purchase food and prepare meals together. This includes spouses and parents and their biological children under age 22. *7 CFR 273.1(b)(1)*; *FoodShare Eligibility Handbook (FSH)*, §3.3.1.3. The income of all members must be included in determining eligibility and allotment levels. *FSH*, §4.3.1.

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR)*, §273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 1.1.4. The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b)*; *FoodShare Wisconsin Handbook (FSH)*, § 4.3.1. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH*, §4.1.1.

The gross income limit for a household of 4 is \$3976.00. *FSH*, §8.1.1.1. Petitioner's gross income is less than this.

If a household passes the gross income test, the following deductions are applied (*FSH*, at § 4.6):

- (1) a standard deduction - which currently is \$165 per month for a household of 4 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*. There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH*, §§ 4.6.7.3 and 8.1.3.

Petitioner questions why the children are included in the household as they are her husband's step children. As noted above they must be included in the household. Their income is also included. *FSH*, §4.3.4.2, #5. In reviewing the calculation of Petitioner's FoodShare eligibility, I do not find any errors. The household net income is in excess of FoodShare net income limits.

### **CONCLUSIONS OF LAW**

1. That Petitioner's children and their income must be included in her FoodShare group.

2. That Petitioner's FoodShare benefits were correctly discontinued because the income of her FoodShare group exceeds FoodShare gross income limits.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of April, 2015

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 21, 2015.

Washington County Department of Social Services  
Division of Health Care Access and Accountability